REMARKS:

This application has been carefully studied and amended in view of the Office Action dated May 23, 2007. Reconsideration of that action is requested in view of the following.

Parent claim 7 had been amended in view of the objections and to more clearly define the invention. As now amended claim 7 is no longer in Jepson form. In addition, "homogenous" has been canceled from line 14.

The negative limitation with regard to a material other than oxygen has now been deleted from claim 7 in view of the rejection under 35 USC 112. As now defined in claim 7 the cerebral medicaments that are used (and consequently the conditions the treated patients suffer from) have been amended to a medicament for treating migraine, a medicament for the treatment of Alzheimer's disease, a medicament for the treatment of Huntington's disease, a medicament for the treatment of amyotropical lateral sclerosis and a medicament for the treatment of AIDS dementia (see page 3, lines 24-26 and page 4, lines 4-14 of specification).

It is respectfully submitted that parent claim 7 and its dependent claims are patentable over the prior art and in particular over Petzelt, et al. in view of the secondary references.

Petzelt et al. disclose that xenon surprisingly suppresses reversibly the release of neurotransmitters (see page 4, fourth paragraph). The invention disclosed by Petzelt et al. is especially based on the insight that xenon reduces the release of dopamine and/or glutamate (see the last line on page 4 in Petzelt et al.)

Accordingly, Petzelt et al. teach using xenon for the treatment of neurointoxications, i.e. acute or chronic states of poisoning the CNS with an excess of neurotransmitters (see first paragraph on page 5 in Petzelt et al.) Such neurointoxications occur in diseases such as apoplexy, hypoxias, oxygen deficiency during birth, Parkinson's disease, craniocerebral trauma,

drug abuse, schizophrenia, depressions and Gille de la Tourette syndrome (see page 5, lines 7-11 in Petzelt et al.)

In accordance with amended claim 7, however, the use of xenon has been limited to the treatment of patients suffering from migraine, Alzheimer's disease, Huntington's disease, amyotropical lateral sclerosis or AIDS dementia. Such diseases are not caused by an increased release of neurotransmitters nor do these diseases lead to an increased release of neurotransmitters. With respect to Alzheimer's' disease, for example, it is assumed that this disease leads to a decreased release of the neurotransmitters acetylcholine.

In view of Petzelt et al., it is therefore not at all obvious for a person skilled in the art that xenon can be used in subanesthetic amounts to assist the effect of cerebral medicaments selected from the group consisting of a medicament for treating migraine, a medicament for the treatment of Alzheimer's disease, a medicament for the treatment of Huntington's disease, a medicament for the treatment of amyotropical lateral sclerosis and a medicament for the treatment of AIDS dementias since Petzelt et al. does not relate to any disease that can be treated with such medicaments.

Such medicaments are also not mentioned in the other references. Fishman et al. teach using xenon in combination with Methyl-atrophine bromide (which is a paraspasmolytic agent), with thiopentone (which is an anesthetic) and with fentanyl (which is an analgesic), but none of these medicaments are used to treat any of the diseases mentioned in amended claim 7.

In view of the above remarks and amendments this application should be passed to issue.

Dated: October 8, 2007

Respectfully submitted,

By Harold Pezzner

Harold Pezzner
Registration No.: 22,112
CONNOLLY BOVE LODGE & HUTZ LLP
1007 North Orange Street
P.O. Box 2207
Wilmington, 19899
(302) 658-9141
(302) 658-5614 (Fax)
Attorney for Applicant

568764